

- (3) The Appeals Board also affirms the decision by the Administrative Law Judge to award two hundred and fifty dollars (\$250) in attorney fees. The claimant's attorney requested attorney fees in the amount of one hundred and twenty-five dollars (\$125) per

hour for four (4) hours. We cannot tell from the Order or the record whether the decision to award less was based upon a lower hourly rate or fewer hours. In either event, the evidentiary record contains nothing which would indicate the award was inappropriate. As the burden is on the claimant to establish a right to the attorney fees, the decision by the Administrative Law Judge must be affirmed.

Wherefore, the Appeals Board finds that the award of attorney fees and penalties dated May 9, 1995 should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of September 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Steven R. Wilson, Wichita, KS
Vaughn Burkholder, Wichita, KS
John C. Nodgaard, Wichita, KS
Shannon S. Krysl, Administrative Law Judge
Philip S. Harness, Director